

ORDINANCE NO. 2015-11

**AN ORDINANCE OF THE CITY OF SIMONTON REGULATING
COMMUNICATION FACILITY STRUCTURES AND MAKING OTHER
PROVISIONS RELATED THERETO**

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SIMONTON, TEXAS:

Sec. 1. DEFINITIONS. In this Ordinance:

(1) "Residential dwelling" means any permanent building beings used by its occupants solely for residential uses.

(2) "Residential subdivision" means a subdivision:

(A) for which a plat is recorded in the county real property records;

(B) in which the majority of the lots are subject to deed restrictions limiting the lots to residential use; and

(C) that includes at least five lots that have existing residential structures.

(3) "Communication facility structure" means:

(A) antenna support structures for mobile and wireless telecommunication facilities, whip antennas, panel antennas, microwave dishes, or receive-only satellite dishes;

(B) cell enhancers and related equipment for wireless transmission from a sender to one or more receivers for mobile telephones, mobile radio systems facilities, commercial radio service, or other services or receivers; or

(C) a monopole tower, a steel lattice tower, or any other communication tower supporting mobile and wireless telecommunication facilities.

Sec. 2. APPLICABILITY. This ordinance does not apply to:

(1) existing communication facilities or other structures used for the purpose of colocation, provided the height is not increased by more than 10 feet;

(2) a communication facility structure built to replace an existing communication facility structure if:

(A) the replacement communication facility structure is constructed within 50 feet of the existing communication facility structure;

(B) the replacement communication facility structure is no higher than and constructed for the same purpose as the existing communication facility structure; and

(C) the existing communication facility structure is removed not later than the 14th day after the date the replacement communication facility begins operations; or

(3) a communications antenna, antenna facility, or antenna tower or support structure located in a residential area that is used by an amateur radio operator exclusively for amateur radio communications or public safety services.

Sec. 3. PERMIT REQUIRED.

(1) A permit for the construction or expansion of a facility is required from City Council. A permit may be issued only after notice and hearing.

(2) A permit fee of \$500.00 is required to recover the cost of administering these regulations.

Sec. 4. LOCATION OF COMMUNICATION FACILITY STRUCTURE. No communication facility structure may be constructed within 300 feet, or the height of the structure, whichever is greater, of a residential dwelling or a residential subdivision.

Sec. 5. FILING REQUIREMENTS REGARDING CONSTRUCTION. A person proposing to construct a communication facility structure shall file with the City Secretary:

- (1) a statement informing the City that the construction is proposed and providing the date on or after which the construction is proposed to begin;
- (2) copies of any necessary permits from the Federal Communications Commission or Federal Aviation Administration;
- (3) a plat or map of the specific proposed location of the communication facility structure; and
- (4) the correct phone number and address of the entity primarily responsible for the construction.

Sec. 6. VARIANCES.

(a) A person who desires to construct or increase the height of a communication facility structure in violation of ordinance may apply to the city council for a variance from the regulation.

(b) The city council may allow a variance from a regulation if the city council finds that:

- (1) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and
- (2) the granting of the relief would:
 - (A) result in substantial justice being done;
 - (B) not be contrary to the public interest; and
 - (C) be in accordance with the spirit of the regulation and this subchapter.

(c) The city council may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this ordinance.

(d) Before granting a request for a variance under this section, the city council may require the applicant to prominently post an outdoor sign at the location stating that a communication facility structure is intended to be located on

the premises and providing the name and business address of the applicant.

(e) The sign must be at least 24 by 36 inches in size and must be written in lettering at least two inches in size. The county in which the communication facility structure is to be located may require the sign to be in English and a language other than English if it is likely that a substantial number of the residents in the area speak a language other than English as their familiar language.

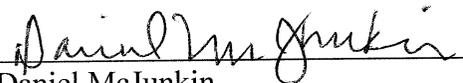
Sec. 7. OFFENSE. (a) A person commits an offense if the person violates this ordinance.

(b) An offense under this section is prosecuted in the same manner as an offense defined under state law.

(c) An offense under this section is a Class C misdemeanor.

Sec. 8. INJUNCTION. The city attorney or an attorney representing the city may file an action in a district court to enjoin a violation or threatened violation of this ordinance.

PASSED, APPROVED, AND ADOPTED this 14 day of April, 2015.



Daniel McJunkin
Mayor

ATTEST:



S. Elliott
City Secretary